

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DEVIN ARMOUR,

Petitioner,

v.

CARMEN PALMER,

Respondent.

Case No. 11-cv-13362

HONORABLE STEPHEN J. MURPHY, III

ORDER ADOPTING REPORT AND RECOMMENDATION (docket no. 17),
GRANTING MOTION TO STAY (docket no. 13), **AND DENYING AS**
MOOT SUPPLEMENTAL MOTIONS TO STAY (docket no. 14–15)

On February 23, 2012, Devin Armour filed a motion to hold his petition for habeas corpus in abeyance and stay the proceedings while he exhausts his state court remedies. He filed two "supplemental" motions requesting the same relief on March 26 and April 13. The Court referred the matter to a magistrate judge. In a Report and Recommendation ("Report") filed on April 27, the magistrate judge recommended granting the first motion to stay on the condition that Armour commence state court proceedings on his unexhausted claims within thirty days of entry of an order entering the stay, and return to this Court within thirty days of the conclusion of state court proceedings. The magistrate judge also suggested denying the two "supplemental" motions to stay as moot. Armour has apprised the Court of his concurrence with the relief suggested in the Report, and no objections have been filed.

Civil Rule 72(b) governs review of a magistrate judge's report and recommendation. De novo review of the magistrate judge's findings is only required if the parties "serve and file specific written objections to the proposed findings and recommendations." Fed. R. Civ. P. 72(b)(2). Nevertheless, because a district judge always retains jurisdiction over a motion

after referring it to a magistrate judge, he is entitled to review the magistrate judge's findings of fact and conclusions of law on his own initiative. See *Thomas v. Arn*, 474 U.S. 140, 154 (1985) (clarifying that while a district court judge need not review a report and recommendation “de novo if no objections are filed, it does not preclude further review by the district judge, sua sponte or at the request of a party, under a de novo or any other standard”).

Having reviewed the Report's analysis in light of the record, the Court finds that its conclusions are factually based and legally sound. Accordingly, it will adopt the disposition of the motions recommended by the magistrate judge.

WHEREFORE, it is hereby **ORDERED** that the Report (docket no. 17) is **ADOPTED**, the first motion to stay (docket no. 13) is **CONDITIONALLY GRANTED**, and the supplemental motions to stay (docket nos. 14 & 15) are **DENIED AS MOOT**.

IT IS FURTHER ORDERED that this case is **STAYED**. Within thirty days of entry of this order, Armour shall begin state court proceedings on his unexhausted claims. He is also ordered to return to this Court and move to lift the stay within thirty days of the conclusion of state court proceedings.

SO ORDERED.

s/Stephen J. Murphy, III
STEPHEN J. MURPHY, III
United States District Judge

Dated: May 28, 2012

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on May 28, 2012, by electronic and/or ordinary mail.

Carol Cohron
Case Manager